SENATE BILL No. 470

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-10-22; IC 6-3-3-13.

Synopsis: Automatic taxpayer refund. Provides for the return of a part of the state's year-end general revenue surplus to Indiana residents in the form of a refundable adjusted gross income tax credit. Establishes the income tax reduction reserve and procedures to implement the credit program. Makes an appropriation.

Effective: July 1, 2009.

Hershman

January 14, 2009, read first time and referred to Committee on Tax and Fiscal Policy.

Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 470

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-10-22 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 22. Income Tax Reduction Reserve Fund

Sec. 1. As used in this chapter, "budget bill" refers to a budget bill (as defined in IC 4-12-1-2) that is enacted in an odd-numbered year.

Sec. 2. As used in this chapter, "fund" refers to the income tax reduction reserve fund established by section 9 of this chapter.

Sec. 3. As used in this chapter, "general revenue appropriations" refers to the sum of the specific amounts appropriated by a budget bill from any general revenue fund for expenditure in a particular state fiscal year, excluding transfers between general revenue funds and transfers to the income tax reduction reserve fund. The term includes any amount appropriated in a budget bill for a period exceeding one (1) state fiscal year that is allocated by the budget agency to a particular

state fiscal year in a list of appropriations prepared under IC 4-12-1-12.

Sec. 4. As used in this chapter, "general revenue fund" refers to the following:

(1) Counter-cyclical revenue and economic stabilization fund (IC 4-10-18-2).

(2) State general fund, including the Medicaid contingency and reserve account of the state general fund (IC 4-12-1-15.5).

(3) State tuition reserve fund (IC 4-12-1-15.7).

Sec. 5. As used in this chapter, "resident" refers to an individual who resides in an Indiana county on January 1 of the calendar year in which the individual's taxable year commences.

Sec. 6. As used in this chapter, "state fiscal year" means a period beginning July 1 in one (1) calendar year and ending on June 30 in the immediately succeeding calendar year.

Sec. 7. As used in this chapter, "taxable year" has the meaning set forth in IC 6-3-1-16.

Sec. 8. As used in this chapter, "year-end general revenue balances" refers to the sum of the unencumbered balances in the general revenue funds at the end of a state fiscal year, after the application of all adjustments related to the close of a state fiscal year.

Sec. 9. (a) An income tax reduction reserve fund is established. The fund is established to:

(1) replace revenue lost from granting credits under IC 6-3-3-13;

(2) pay or reimburse other funds for refunds paid under IC 6-3-3-13; and

(3) pay the costs of administering this chapter and IC 6-3-3-13.

(b) The budget agency shall administer the fund.

(c) The fund consists of money transferred to the fund under section 10 of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of the fund.

Sec. 10. Not later than thirty-one (31) days after the end of a state fiscal year, the auditor of state, after reviewing the recommendation of the budget agency, shall transfer an amount

from one (1) or more of the general revenue funds to the fund. The total amount transferred under this section must equal the amount by which the state's year-end general revenue balances for the immediately preceding state fiscal year exceed, in the aggregate, ten percent (10%) of the general revenue appropriations for the current state fiscal year. The part of the total amount to be transferred from each general revenue fund is the amount specified by the budget agency.

Sec. 11. In each state fiscal year, the department of state revenue, after reviewing the recommendation of the budget agency, shall calculate the tax reduction amount that will apply under IC 6-3-3-13 to taxable years ending in that state fiscal year. The tax reduction amount for a state fiscal year must equal the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount transferred in the state fiscal year to the fund under section 10 of this chapter.

STEP TWO: Determine the sum of the following:

(A) The number of individual tax returns that are likely to be filed under IC 6-3 for a taxable year that ends in the state fiscal year described in STEP ONE on which the individual filing the return is an Indiana resident.

(B) The number of joint tax returns that are likely to be filed under IC 6-3 for a taxable year that ends in the state fiscal year described in STEP ONE on which only an individual filing the return or the individual's spouse is a resident of Indiana.

(C) The product of:

(i) the number of joint tax returns that are likely to be filed under IC 6-3 for a taxable year that ends in the state fiscal year described in STEP ONE on which both an individual filing the return and the individual's spouse are residents of Indiana; multiplied by

(ii) two (2).

STEP THREE: Determine the result of:

(A) the STEP ONE amount; divided by

(B) the STEP TWO amount.

The budget agency shall certify the tax reduction amount to the department of state revenue.

Sec. 12. The department of state revenue shall report to the auditor of state and the budget agency the total amount of credits granted under IC 6-3-3-13 on returns processed by the department of state revenue. The information shall be reported in the manner

and on the schedule specified by the budget agency.

Sec. 13. The auditor of state shall transfer amounts equal to the credits granted under IC 6-3-3-13 from the fund to a state revenue fund on the schedule designated by the budget agency.

Sec. 14. There is continuously appropriated a sufficient amount from the fund and the general revenue funds to make the transfers required by this chapter.

SECTION 2. IC 6-3-3-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13. (a) An individual who qualifies as a resident (as defined in IC 4-10-22-5) in a taxable year is entitled to a credit against the individual's adjusted gross income tax liability imposed for the taxable year.**

(b) The amount of the credit is equal to the tax reduction amount determined for the taxable year under IC 4-10-22-11 multiplied by the following:

(1) One (1), if the individual files an individual return.

(2) One (1), if the individual files a joint return with a spouse who is not a resident.

(3) Two (2), if the individual files a joint return with a spouse who is a resident.

(c) A credit granted under this section shall be applied after the application of all other allowable deductions and credits.

(d) If the credit determined for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer is entitled to a refund of the excess. A taxpayer is not entitled to a carryforward or carryback of any unused credit.

(e) To qualify for a credit, an individual must apply for the credit in the manner prescribed by the department. The individual must provide the department with the information that the department determines necessary to determine the individual's eligibility for the credit.